

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12415 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

KANTILAL N KHAMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12415 of 2001
MR AS PANDYA for Petitioner No. 1
MR MANISH A PANDYA for Petitioner No. 1
Mr.A.Y.Kogje, learned AGP for Respondent No. 1
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CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 12/02/2002

ORAL JUDGEMENT

1. Rule.Mr.A.Y.Kogje, learned AGP waives service of
rule on behalf of respondent. By consent rule is fixed
forthwith.

2. During hearing Mr.Pandya appearing for the petitioner has taken me through the petition and the documents attached thereto. In this petition, the petitioner has prayed that time to occupy the premises, namely, Quarter No.K-11 in Government Colony situated at Navrangpura Area, Ahmedabad be extended till 31.5.2002 on the grounds highlighted in the petition. The petitioner after retirement from the Government service has not handed over the quarter, namely, Quarter No.K-11 in Government Colony situated at Navrangpura Area, Ahmedabad and accordingly the authority has to initiate proceedings under the Bombay Public Premises Act wherein the authority has passed an order of eviction directing the petitioner to hand over the vacant possession of the Quarter in question to the respondent authority. Against the said order, the petitioner had filed appeal before the Principal Judge of the City Civil Court, Ahmedabad and challenged the said order on several grounds. Before the learned Principal Judge, during hearing of the said Appeal, purshish Exh.20 was filed by the petitioner praying that time to occupy the quarter be granted on the ground that the petitioner is in search of suitable accommodation and it became difficult for the petitioner to find out suitable accommodation and accordingly relied upon the decision of the High Court in Misc. Civil Application No.922/2001 in Special Civil Application No.6839/1998 dated 13.6.2001. The learned Principal Judge has allowed the application of the petitioner Exh.20 and extended time upto 30.11.2001 with specific direction that in case the appellant does not handover the vacant and peaceful possession of the premises in question to the respondent by 30.11.2001, it will be open for the respondent to evict the appellant from the premises after 1.12.2001 without following any procedure and accordingly the appeal being Appeal No.12/2001 was disposed of as per judgment and order dated 30.8.2001. The petitioner has also filed medical certificate dated 28.11.2001 issued by Dr. P.S.Ayengar, consulting Physician, Ahmedabad to the effect that the petitioner is aged 73 years and is suffering from diabetes and hypertension.

3. During hearing it was also brought to my notice about the judgment dated 31.1.2002 in Special Civil Application No.11325 of 2001 with connected matters wherein this court has only on humanitarian ground extended time prayed for in those petitions. Considering the contentions raised before me, in this petition, only on humanitarian ground I am inclined to dispose of this

petition by granting time to occupy the premises, namely, Government Quarter upto 31.5.2002 on the following conditions.

- (i) The petitioner shall file undertaking to this court incorporating that the petitioner shall hand over vacant and peaceful possession of the quarter in question to the respondent authority on or before 31.5.2002.
- (ii) The petitioner shall clear all the arrears of rent, which was payable by the petitioner as per rules. Arrears of rent upto January 2002 to be deposited with the respondent authority before the end of February, 2002.
- (iii) The rent for the months of February, 2002 to May 2002 will be deposited regularly with the respondent authority at the end of each month.
- (iv) The petitioner will not make any application for further extension of time.

4. Mr. Pandya, learned advocate appearing for the petitioner, has requested for time to file undertaking of petitioner upto 28th-February, 2002. Considering the request to file undertaking, time is granted upto 28th-February, 2002. It is also directed that petitioner shall furnish the copy of the undertaking to the respondent authority as well as to the office of the Government Pleader. If the undertaking is not filed within the stipulated time, the liberty is granted to the respondent authority to move this court for appropriate orders.

5. Accordingly this petition is disposed of. Rule is made absolute. However, there shall be no order as to costs. This order is passed considering the facts made out in the present petition and only on humanitarian ground and the same will not be a precedent.

(D.K. Trivedi, J)

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